IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22/09/2004

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THE HONOURABLE MR.JUSTICE F.M.IBBRAHIM KALIFULLA

Writ Petition No.11413 of 1997

The Scheduled Castes Uplift Union,
rep. by its General Secretary,
K.Sakthivelu .. Petitioner

-vs-

1. The General Manager (Personnel),
Bharath Heavy Electricals Ltd.,
Corporate Office, Bhel House,
Siri Fort, New Delhi.

2. The General Manager,
Personnel & Administration
Bharath Heavy Electricals Ltd.,
Trichy Unit, Trichy-620 014.

3. The Liaison Officer for SC/ST,
Bharath Heavy Electricals Ltd.,
Trichy Unit, Trichy-620 014.

4. The Union of India,
Rep. by the Secretary,
Ministry of Heavy Industries,
New Delhi. .. Respondents

Petition under Article 226 of the Constitution of India praying for
issuance of Writ of Mandamus as stated below.

For Petitioner : Mr.K.Muthuramalingam

For Respondents : Mr.B.T.Seshadri/RR1 & 2
: No appearance for RR3 & 4

:O R D E R

The petitioner seeks for the issuance of Writ of Mandamus
directing respondents 1 to 3 to follow the guidelines of BHEL/Government of
India and consequently to implement the reservation policy for promotion in

all Management cadres/levels, i.e. from E1 to E8 Cadres, in executive conversion cadre, i.e. from Foreman to Engineer E1 level, and in Supervisory conversion cadre, i.e. from Technician to Chargeman category for Scheduled Caste and Scheduled Tribes Employees in the Bharath Heavy Electricals at Tiruchirappalli unit in accordance with the directives of the Government of India, the guidelines of BHEL in D.O. No.AA.PER:SC:P dated 25.5.90 and the Article 16 (4A) of the Constitution of India.

2. The sum and substance of the grievance of the petitioner is that respondents 1 to 3 failed to follow their own guidelines in D.O. No.AA.PER:SC:P dated 25.5.90 in the matter of observing the policy of reservation in the Management cadres in the levels E1 to E8, i.e., from foreman to Engineer E1 level and thereby, the scheduled caste and scheduled tribe employees were deprived of their valuable rights. In fact, in para 16 of the affidavit of the petitioner filed in support of the writ petition, it is sought to be demonstrated that though in the matter of promotion from E1 to E6 as well as from the category of DGM to SDGM, certain employees, who belong to SC/ST category, were promoted, in regard to the promotion to the post of AGM none of the SC/ST employees were considered and therefore, they call for a direction from this Court.

3. As against the above said claim of the petitioner, in the counter-affidavit filed by the second respondent, a stand has been specifically taken to the effect that beyond E5 category, there is no provision for application of reservation or relaxation for SC/ST employees. In Annexure III filed along with the counter-affidavit, it is shown that even in the year 1997, the employees available in the SC/ST category were considered and out of 21 persons available in E5 level, 11 came to be promoted, while two persons in the said category in E6 level were promoted to the next level, namely, E6 A, which is said to be the SDGM level. It is further pointed out in the said annexure that in E6 A level as well as in AGM level, there were no SC/ST candidates available for being considered for promotion to the next level irrespective of whether they were entitled for reservation or relaxation for being promoted to the next level.

4. On a perusal of the guidelines, which the petitioner seeks to be followed, namely, the one dated 25.5.90, I find that in paragraph 3, it is stated to the following effect:-
"3. SC/St employees, within the number of vacancies due for promotion from E2 to E3, E3 to E4 and E4 to E5 are to be promoted unless they are found unfit for promotion irrespective of their merit position. In Government, this is applicable to posts which carry an ultimate salary of Rs.5700/- (Revised)."

A close reading of the above referred to paragraph also makes it clear that the policy of reservation in respect of SC/ST employees within the number of vacancies in the levels E2 to E3, E3 to E4 and E4 to E5 is available and that such a position was in tune with the policy that was prevailing in the service of the State. It is also stated that even such reservation would be available in respect of the posts, which carry an ultimate salary of Rs.5,700/-.

5. In the affidavit filed in support of the writ petition

except the grievance expressed in paragraph 16, I do not find any specific grievance pointed out by the petitioner to state that respondents 1 to 3 violated the policy of reservation in the matter of promotion in the executive cadre. Even with regard to the specific averments contained in para 16 of the writ petition affidavit, when the socalled policy of the first respondent dated 25.5.90 is applied, it is clear that any reservation for SC/ST would be only upto the level of E5 and not beyond. In fact, even as per the particulars furnished in para 16 of the writ petition affidavit, there had been promotions in the SC/ST category even upto E6 level. Therefore, there could be no scope for the petitioner to voice any grievance as regards the reservation policy applied upto the level of E6 category.

6. As far as the grievance expressed beyond the level of E6, i.e., from DGM to SDGM and SDGM to AGM, when it is pointed out that there is no scope for applying the policy of reservation even on the basis of the guidelines dated 25.5.90, there is no scope for countenancing the said claim of the petitioner. In any event, when it is shown that there were no SC/ST candidates beyond E6 A level, namely, from the level of DGM, the grievance of the petitioner cannot be considered.

7. Therefore, looked at from any angle, I do not find any scope to grant the relief as prayed for by the petitioner in this writ petition. The writ petition fails and the same is dismissed. No costs.

Index: Yes
Website: Yes
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To
1. The General Manager (Personnel),

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Siri Fort, New Delhi.

2. The General Manager,
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